

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

ADOPTED TEXT

TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6.5, ARTICLES 1 AND 3
AMEND SECTIONS 1200, 1201, AND 1213.2

MOTOR CARRIER SAFETY - DEFINITIONS **(CHP-R-2000-06)** (OAL NOTICE FILE NUMBER Z01-0403-02)

Existing text:Times New Roman 12 point font.
Additions:.....Times New Roman 12 point font with single underline.
Deletions:.....~~Times New Roman 12 point font with strikethrough~~

NOTE TO PUBLISHER/READERS: For consistency, the style of all titles following the lower case alphas [(a), (b), (c), etc.] have been modified. The former style was, for example “(a) Design.”; the proposed style is “**(a) *Design.***” Since the change is just to the text style (normal to bold italicized text) underlines have not been used to indicate this change. Only in the case of actual addition or deletions has the underline and strikeout been used. Please recognize that italicized text is a format change and that it should be updated in the printed document.

(1) Title 13, California Code of Regulations, Chapter 6.5 Motor Carrier Safety Article 1. Definitions and General Provisions is amended to read:

§1200. Scope.

(a) *Applicability.* Unless otherwise indicated within a specific section, the provisions of this chapter shall apply to farm labor vehicles and the vehicles listed in Vehicle Code Sections 34500 and 34500.1 and their operation.

(b) *Limited Application.*

(1) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are required pursuant to Vehicle Code Section 27903 shall be subject to the following Sections of this chapter: 1212, 1212.5, 1213, 1213.1, 1214, 1215, 1229, 1230, 1232, 1234, and 1256.

(2) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are not required shall be subject to the following Sections of this chapter: 1212, 1212.5, 1214, 1215 (except 1215(b)), 1229, 1230, and 1232. Two-axle motortrucks transporting hazardous materials for which a license is required by Vehicle Code Section 32000.5 shall also be subject to Section 1256.

(3) Section 1213.1 Subsections (c) through (f), shall apply to drivers of commercial motor vehicles as defined in Vehicle Code Section 15210.

(4) Two-axle motor trucks described in subdivision (j) of Vehicle Code Section 34500 shall be subject only to Sections 1212, 1212.5 and 1213 of this chapter.

(c) *Exceptions.*

This chapter shall not apply to vehicles used primarily off the highway and not required to be registered pursuant to Vehicle Code Section 4000(a).

Authority cited: Sections 31401, 34501, 34501.2, 34501.5, 34508 and 34513, Vehicle Code; and Section 39831, Education Code. Reference: Sections 31401, 34500, 34500.1, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

§1201. Definitions.

The following terms are defined for purposes of this chapter:

(a) *Adverse driving conditions.* Snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.

(b) *Bus.* Every motor vehicle defined in Vehicle Code Section 233 and every school bus, school pupil activity bus, youth bus, and farm labor bus. Bus "type" is determined as follows:

(1) Type 1. Designed for carrying more than 16 passengers and the driver.

(2) Type 2. Designed for carrying not more than 16 passengers and the driver; or manufactured on or after April 1, 1977, having a manufacturer's gross vehicle weight rating of 10,000 lb or less, and designed for carrying not more than 20 passengers and the driver.

(c) *Co-driver.* A driver teamed with another driver for the purpose of alternating driving duties during a trip. While one drives, the other ordinarily rests in a sleeper berth. Both driver

and co-driver maintain separate driver's ~~logs~~ records of duty status pursuant to Section 1213 of this title.

(d) Commercial Motor Vehicle. Any vehicle or combination of vehicles as defined in Vehicle Code Section 15210(b)(1).

~~(d)~~**(e) Commissioner.** Commissioner of the Department of the California Highway Patrol.

~~(e)~~**(f) Department.** Department of the California Highway Patrol.

~~(f)~~**(g) Drive or Operate.** These terms include all time spent at the driving controls of a motor vehicle in operation.

~~(g)~~**(h) Driver.** Any person, including the owner-driver, who drives any motor vehicle subject to this chapter, and any person, whether driving for compensation or not, who is under the direct control of and drives for a motor carrier.

~~(h)~~**(i) Driver-salesperson.** Any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by commercial motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he/she reports for duty, who devotes not more than 50 percent of his/her hours on duty to driving time. The term "selling goods" for purposes of this section shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

(j) Driving Time. Means all time spent at the driving controls of a commercial motor vehicle in operation.

~~(j)~~**(k) Eight eConsecutive dDays.** The period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

~~(j)~~**(l) FMVSS.** Federal Motor Vehicle Safety Standard(s) in effect at the time the vehicle or component is manufactured.

~~(k)~~**(m) GPPV. General Public Paratransit Vehicle.** Any motor vehicle specified in Vehicle Code Section 336.

~~(k)~~**(n) Interstate Driver.** The driver of a vehicle engaged in interstate commerce. As used in Sections 1212, 1212.5, and 1213, "interstate driver" includes all drivers who transport hazardous substances or hazardous wastes as defined in 49 CFR 171.8, as published October 1, ~~1992~~2000.

~~(m)~~(o) ***Intrastate Driver.*** The driver of a vehicle not subject to ~~f~~Federal Motor Carrier Safety ~~r~~Regulations and not transporting hazardous substances or hazardous wastes as defined in 49 CFR 171.8, as published October 1, ~~1992~~2000.

~~(n)~~(p) ***Manufacturer of the eChassis.*** The original manufacturer of the chassis or the manufacturer of any integral type of school bus.

~~(o)~~(q) ***Motor eCarrier or eCarrier.*** The registered owner, lessee, licensee, school district superintendent, or bailee of any vehicle who operates or directs the operations of any such vehicle on either a for-hire or not-for-hire basis. The terms “motor carrier” and “carrier” may be used interchangeably in this chapter.

~~(p)~~(r) ***Multiple sStops.*** All stops made in any one village, town, or city may be computed as one.

~~(q)~~(s) ***On-duty tTime.*** All time from the time a driver begins to work, or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work. On-duty time shall include:

(1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

(2) All time inspecting, servicing, or conditioning any vehicle;

(3) All “driving time” as defined ~~in the term “drive or operate” in this Ssection 1201;~~

(4) All time, other than driving time, in or upon any motor vehicle, except time spent resting in a sleeper berth as defined by the term “sleeper berth” in this Ssection 1201;

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time spent complying with driver requirements relating to accidents;

(7) All time repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle;

(8) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post accident, or follow-up testing required by 49 CFR Part 382, when directed by a motor carrier;

~~(8)~~**(9)** Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier; and

~~(9)~~**(10)** Performing any compensated work for any nonmotor carrier entity. ~~(Any driving done for an employer shall be counted toward the total driving hours permitted in a work period.)~~

~~(r)~~**(t)** ***Pupil ~~t~~Transportation.*** The transportation of any pupil enrolled in a public or private school at or below the twelfth-grade level to or from school in a school bus, to or from a school activity in a school bus or SPAB, from a school to a nonschool-related activity within 25 miles of the school in a youth bus, or the transportation of any student enrolled in a community college to or from the community college or a college activity, in a vehicle designated as a school bus by resolution of the governing board pursuant to Vehicle Code Section 545(g), and certified by the Department.

~~(s)~~**(u)** ***SPAB--School Pupil Activity Bus.*** Any motor vehicle specified in Vehicle Code Section 546.

~~(t)~~**(v)** ***School District Superintendent.*** This term or a similar phrase includes county superintendent of schools and the equivalent official of a private or public school that does not have a school district superintendent.

~~(u)~~**(w)** ***Seven ~~e~~Consecutive ~~d~~Days.*** The period of 7 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

~~(v)~~**(x)** ***Sleeper ~~b~~Berth.*** A berth conforming to the requirements of Section 1265.

~~(w)~~**(y)** ***Supporting ~~d~~Documents.*** Supporting documents are the records of a motor carrier which are maintained in the ordinary course of business which may be used to verify the information recorded on the drivers' records of duty status. Examples are bills of lading, carrier pros, freight bills, dispatch records, driver call-in records, gate record receipts, weight scale tickets, fuel receipts, fuel billing statements, toll receipts, international registration plan receipts, international fuel tax agreement receipts, trip permits, port of entry receipts, cash advance receipts, delivery receipts, lumper receipts, interchange and inspection reports, lessor settlement sheets, over/short and damage reports, agricultural inspection reports, Commercial Vehicle Safety Alliance reports, accident reports, telephone billing statements, credit card receipts, driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to

the motor carrier's operation, which are retained by the motor carrier in connection with the operation of its transportation business. Supporting documents may include other documents which the motor carrier maintains and which can be used to verify information on drivers' records of duty status.

~~(x)(z)~~ **Trailer-bus**. A trailer or semi-trailer designed or used for the transportation of more than 10 persons.

~~(y)(aa)~~ **Truck**. All motortrucks and truck tractors specified in Vehicle Code Section 34500.

~~(z)(bb)~~ **Twenty-four hHour pPeriod**. Any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

~~(aa)(cc)~~ **Wheelchair**. A specially constructed device on wheels used exclusively to transport a physically handicapped person except infant seat devices, strollers, and gurneys.

~~(bb)(dd)~~ **Wheelchair sSchool bBus**. Any school bus that has been designed or modified in accordance with Section 1293 of this title to transport pupils confined to wheelchairs.

~~(ee)(ee)~~ **Work pPeriod**. The duration between the time a driver first reports for duty and the time a driver is completely relieved of all duties and is permitted to go off duty for eight consecutive hours. The terms "work period" and "tour of duty" have the same meaning.

NOTE: Authority cited: Sections 31401, 34501, 34501.5 ~~and 34508~~, 34508, and 34520 Vehicle Code; and Section 39831, Education Code. Reference: Sections 336, 546, 31401, 34501, 34501.2, 34501.5 ~~and 34508~~, 34508, and 34520 Vehicle Code; and Section 39831, Education Code.

§1213.2. Automatic On-Board Recording Device.

(a) **Automatic On-Board Recording Device**. For the purposes of this section, an automatic on-board recording device is an electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically.

(b) **Minimum Information Requirements**. The device must be installed to record specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

(c) **Display Requirements**. Automatic on-board recording devices shall produce, upon demand, an electronic display or printout of a driver's hours of service showing the time, sequence, and location of duty status changes including the driver's starting time at the beginning of each day.

(d) **Handwritten Records.** Upon the request of any authorized employee of the Department, or any regularly employed and salaried police officer or deputy sheriff, drivers using an automatic on-board recording device shall produce a handwritten driver's record of duty status based upon the information stored in the device, relating to the current day and the preceding seven days.

(e) **Support Systems.** Support systems used in conjunction with on-board recorders at the driver's terminal or the motor carrier's principal place of business must be capable of providing authorized employees of the Department, or any regularly employed and salaried police officer or deputy sheriff, with an individual driver's hours of service records. The support systems must also provide information concerning on-board system failures and identification of edited data.

(f) **Previous Seven Days.** Each driver shall have in his/her possession records of duty status for the previous seven consecutive days. These records shall consist of information stored in and retrievable from the automatic on-board recording device, handwritten records, computer generated records, or any combination thereof.

(g) **Driver's Certification.** All hard (paper) copies of the driver's record of duty status shall be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

(h) **Duty Status.** The duty status and additional information required in section 1213(c) shall be recorded using the wording required by section 1213(c), an abbreviated form of the word, or an identifiable code or character.

(i) **Required Documents.** Each driver shall have in his/her possession and make available upon request of any authorized employee of the Department, or any regularly employed and salaried police officer or deputy sheriff, instructions describing the data that may be retrieved, a list of function codes, geographic location codes, and blank driver's ~~log-grid forms~~ record of duty status graph-grids.

(j) **Inoperative Device.** When the automatic on-board recording device is inoperative or the driver is unable to retrieve the required information from the device, each driver shall reconstruct the records of duty status for the current and the prior seven days and continue to prepare a handwritten record of duty status until the automatic on-board recording device is fully operational.

(k) **Multiple Drivers.** When more than one driver is using the automatic on-board recording device, the device must be capable of recording separately each driver's duty status and shall record the sequential changes in duty status and times when the changes occurred for each driver.

(l) **Display Capabilities.** Automatic on-board recording devices with electronic displays shall have the capability of displaying the following:

- (1) Driver's total hours of driving.
- (2) Total hours on duty today.
- (3) Total miles driven today.
- (4) The sequential changes in duty status, and the times and locations where changes occurred for each driver.

(m) **Malfunction Warning.** The automatic on-board recording device shall be capable of warning the driver visually or audibly that the device has ceased to function. Automatic on-board recording devices installed and operational as of October 31, 1988, and authorized by a departmental exemption or Federal Highway Administration (FHWA) waiver to be used in lieu of a handwritten record of duty status are exempt from this requirement.

(n) **Data Reproduction.** When data is reproduced in printed form, the automatic on-board recording device/system shall identify sensor failure and edited data. Automatic on-board recording devices installed and operational as of October 31, 1988, and authorized by a Departmental exemption or FHWA waiver to be used in lieu of the handwritten record of duty status are exempt from this requirement.

(o) **Update.** The automatic on-board recording device shall permit duty status to be updated only when the vehicle is at rest.

(p) **Performance Certification.** Carriers shall obtain a certificate from the manufacturer certifying the design of the automatic on-board recorder has been sufficiently tested under the condition in which it will be used to meet the requirements of this section.

(q) **Tamper-proof.** The automatic on-board recording device and associated support systems must be tamper-proof and not permit altering of the information collected concerning the driver's hours of service.

(r) **Device Maintenance.** Carriers shall ensure that the automatic on-board recording device and associated support system are properly maintained and recalibrated in accordance with the manufacturer's specifications.

(s) **Training.** Carriers shall ensure that drivers are trained regarding the proper operation of the device.

NOTE: Authority cited: Sections 31401 and 34501, Vehicle Code. Reference: Sections 31401 and 34501 Vehicle Code.